

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WALTER H. GRANATA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2150

Decision No. CU -1091

Counsel for claimant

Rufus King, Esq.

Appeal and objections from a Proposed Decision entered January 31, 1968; oral hearing requested.

Oral argument August 18, 1971 by Rufus King, Esq.

FINAL DECISION

amended F.D. follows

By Proposed Decision issued on January 31, 1968 this claim was denied for failure of proof. Subsequently additional evidence was submitted and oral testimony and arguments were presented at a hearing held on August 18, 1971. Pursuant to counsel's request, the Commission granted claimant thirty days in which to present evidence to substantiate his asserted ownership of stock interests in the South Santiago Mines, Incorporated, of Cuba, and the value thereof. Such evidence has not been received.

Upon consideration of the new evidence in the light of the entire record, the Commission now finds that claimant has been a United States national since birth and that pursuant to the Community Property Law of Cuba he owned a 1/2 interest in the equipment, household furnishings and clothing subject of this claim. Since his wife was a Cuban national at the time of loss, so much of the claim as is based on her 1/2 interest must be and is denied.

The Commission further finds that in the absence of evidence to the contrary. The household furnishings and clothing were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989 which

confiscated all assets of persons who had left the country, and the equipment was taken on October 27, 1959 pursuant to Law 617.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

Based on the entire record, the Commission finds that claimant's valuations of the household furnishings and clothing of \$15,247.50 and of the equipment valued at \$32,000.00 are fair and reasonable; and accordingly concludes that claimant suffered a loss in the aggregate amount of \$23,623.75 as the result of the taking of his 1/2 interest in this personality.

Counsel has been advised that the Commission will reopen the matter upon the receipt of evidence warranting a change in any part of this decision provided that such evidence is received by May 1, 1972 in order to permit consideration thereof prior to the close of the program.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 27, 1959	\$16,000.00
December 6, 1961	<u>7,623.75</u>
Total	\$23,623.75


Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

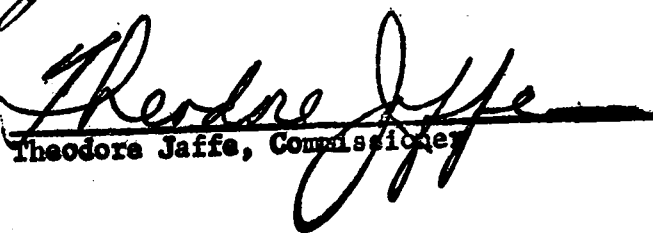
CERTIFICATION OF LOSS

The Commission certifies that WALTER H. GRANATA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Three Thousand Six Hundred Twenty-Three Dollars and Seventy-Five Cents (\$23,623.75) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 6 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

CU-2150

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WALTER H. GRANATA

Claim No. CU-2150

Decision No. CU-1091

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esq.

AMENDED FINAL DECISION

On October 6, 1971 the Commission issued a Final Decision on this claim certifying losses in favor of claimant in the amount of \$7,623.75 for his 1/2 interest in household furnishings and clothing, and \$16,000.00 for his 1/2 interest in certain equipment, it appearing that his wife, a nonnational of the United States on the dates of loss, owned the other 1/2 interests.

Subsequently, satisfactory evidence was received which establishes that claimant was married on April 10, 1958 and that the household items and related personalty, except personal belongings of his wife in the amount of \$2,150.00, had been acquired by claimant prior to his marriage. Other evidence submitted after the entry of the Final Decision herein concerning the asserted stock interest in a Cuban corporation is found to be insufficient to justify favorable action in this respect.

In view of the foregoing the Commission now finds that claimant was the sole owner of the household furnishings and related items subject of this claim, except for the personal belongings of his wife, and that he suffered a loss in the amount of \$13,097.50 as a result of their taking by the Government of Cuba.

The total losses in this claim are now summarized as follows:

<u>Items</u>	<u>Date of Loss</u>	<u>Amount</u>
Equipment	October 27, 1959	\$16,000.00
Household furnishings, etc.	December 6, 1961	13,097.50
		<u>\$29,097.50</u>

The Commission reaffirms its holding concerning the inclusion of interest, and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 27, 1959	\$16,000.00
December 6, 1961	<u>13,097.50</u>
	\$29,097.50

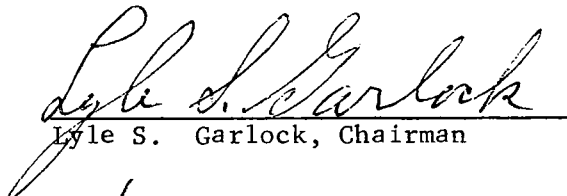
Accordingly, the certification of loss as restated below will be entered, and in all other respects the Proposed and Final Decisions are affirmed.

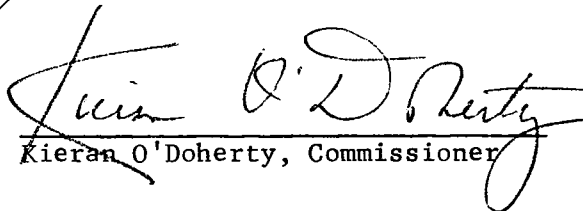
CERTIFICATION OF LOSS

The Commission certifies that WALTER H. GRANATA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Nine Thousand Ninety-Seven Dollars and Fifty Cents (\$29,097.50) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C., and
entered as the Amended Final
Decision of the Commission

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WALTER H. GRANATA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2150

Decision No. CU 1091

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$205,357.50, was presented by WALTER H. GRANATA and is based upon the asserted loss of a certain stock interest in South Santiago Mines, Inc., personal property, and commissions. Claimant stated that he has been a national of the United States since his birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

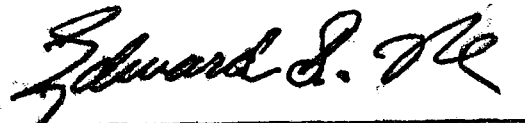
Claimant asserts the ownership of certain stock interests in South Santiago Mines, Incorporated of Cuba, personal property and the deprivation of a commission assertedly earned for effecting the sale of certain chrome; however, claimant has submitted no documentary evidence in support of his claim other than an itemization of personal property and two letters concerning the possible sale of equipment by the claimant to the Government of Cuba. By Commission letter of July 10, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act.

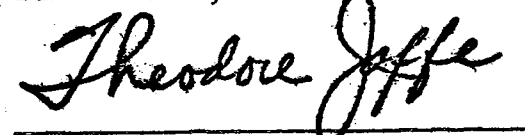
On October 23, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that absent such evidence, it might become necessary to determine the claim on the basis of the existing record. In response to a letter from the claimant received on October 25, 1967, the Commission made additional suggestions. However, no evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JAN 31 1968


Edward D. Re, Chairman


Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)